

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FEDERAL HOUSING FINANCE AGENCY,

Plaintiff,

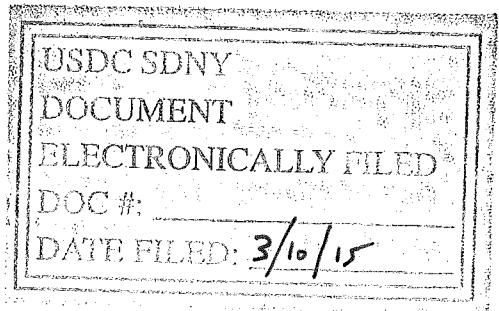
-v-

NOMURA HOLDING AMERICA, INC., et al.,

Defendants.
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11cv6201 (DLC)

ORDER



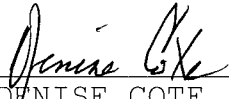
DENISE COTE, District Judge:

FHFA has presented alternative interest rates for the calculation of prejudgment interest in this action. One of those interest rates -- the IRS underpayment interest rate -- is typically applied when defendants have engaged in fraud or conscious wrongdoing. In the event that FHFA prevails at trial, the adoption of this interest rate would result in a significant increase in the damages award to be entered when compared to the alternative interest rates proposed by the parties. The defendants wish to offer evidence at trial of the losses they incurred in connection with the seven Securitizations in support of their argument that imposition of the IRS underpayment interest rate is punitive and improper here. Accordingly, it is hereby

ORDERED that, in the event that FHFA prevails at trial, and in the event the Court finds it appropriate to consider selection of the IRS underpayment interest rate as the rate of prejudgment interest, the defendants will be given an opportunity to present evidence of any losses they sustained on the seven Securitizations, and the parties will be given an opportunity to be heard on whether it is appropriate, based on the trial record and those losses, to choose the IRS underpayment interest rate.

IT IS FURTHER ORDERED that, subject to the exception above, FHFA's application to exclude evidence of the defendants' retention of a residual interest in the Securitizations and their associated losses is granted.

Dated: New York, New York
March 10, 2015



DENISE COTE
United States District Judge